

## Mold Outline

### Section 1 Purpose

Legislative purpose.--The Legislature finds it necessary in the interest of the public safety and welfare, in order to prevent damage to the real and personal property of the residents of this state and to avert economic injury to the residents of this state, to regulate individuals and companies that hold themselves out to the public as qualified to perform mold-related activities.

### Section 2 Exemptions

(1) The following persons are not required to comply with this act with regard to any mold assessment:

- (a) A residential property owner who performs mold assessment on his or her own property.
- (b) A person who performs mold assessment on property owned or leased by the person, the person's employer, or an entity affiliated with the person's employer through common ownership, or on property operated or managed by the person's employer or an entity affiliated with the person's employer through common ownership. This exemption does not apply if the person, employer, or affiliated entity engages in the business of performing mold assessment for the public.
- (c) An employee of a mold assessor while directly supervised by the mold assessor.
- (d) Individuals or business organizations that are not specifically engaged in mold assessment but are acting within the scope of the respective licenses required under chapter 471, part I of chapter 481, chapter 482, or chapter 489, are acting on behalf of an insurer under part VI of chapter 626, or are individuals in the manufactured housing industry who are licensed under chapter 320.
- (e) An authorized employee of the United States, this state, or any municipality, county, or other political subdivision, or public or private school, **who is qualified to take the examination as set forth in [section 8](#)** and who is conducting mold assessment within the scope of that employment, as long as the employee does not hold out for hire or otherwise engage in mold assessment.

(2) The following persons are not required to comply with this part with regard to any mold remediation:

- (a) A residential property owner who performs mold remediation on his or her own property.

(b) A person who performs mold remediation on property owned or leased by the person, the person's employer, or an entity affiliated with the person's employer through common ownership, or on property operated or managed by the person's employer or an entity affiliated with the person's employer through common ownership. This exemption does not apply if the person, employer, or affiliated entity engages in the business of performing mold remediation for the public.

(c) An employee of a mold remediator while directly supervised by the mold remediator.

(d) Individuals or business organizations that are not specifically engaged in mold remediation but that are acting within the scope of the respective licenses required under chapter 471, part I of chapter 481, chapter 482, or chapter 489, are acting on behalf of an insurer under part VI of chapter 626, or are individuals in the manufactured housing industry who are licensed under chapter 320.

(e) An authorized employee of the United States, this state, or any municipality, county, or other political subdivision, or public or private school, **who is qualified to take the examination as set forth in [section 8](#)** and who is conducting mold remediation within the scope of that employment, as long as the employee does not hold out for hire or otherwise engage in mold remediation.

Section 3 Definitions.—As used in this act, the term:

(1) “Board” means the Board of Mold Assessors and Remediators.

(2) “Department” means the Department of Business and Professional Regulation.

(3) "Mold" means an organism of the class fungi that causes disintegration of organic matter and produces spores, and includes any spores, hyphae, and mycotoxins produced by mold.

(4) "Mold assessment" means:

(a) An investigation or survey of a dwelling or other structure to provide the owner or occupant with information regarding the presence, identification, or evaluation of mold;

(b) The development of a mold-management plan or mold-remediation protocol; or

(c) The collection or analysis of a mold sample.

(5) "Mold assessor" means any person who performs or directly supervises a mold assessment.

(6) "Mold remediation" means the removal, cleaning, sanitizing, demolition, or other treatment, including preventive activities, of mold or mold-contaminated matter that was not purposely grown at that location; however, such removal, cleaning, sanitizing,

demolition, or other treatment, including preventive activities, may not be work that requires a license under chapter 489 unless performed by a person who is licensed under that chapter or the work complies with that chapter.

(7) "Mold remediator" means any person who performs mold remediation. A mold remediator may not perform any work that requires a license under chapter 489 unless the mold remediator is also licensed under that chapter or complies with that chapter.

Section 4 Board of Mold Assessors and Remediators.—There is created in the Department of Business and Professional Regulation the Board of Mold Assessors and Remediators. The board shall consist of nine members, three of whom shall be licensed mold assessors, three of whom shall be licensed mold remediators, one of whom shall be a construction contractor licensed under part I of chapter 489 who does not hold a license under this act, one of whom shall be a real estate broker licensed under chapter 475, one of whom shall be a layperson not licensed under this act, chapter 489, or chapter 475.

Section 5 Rulemaking authority.—The board has the authority to adopt rules pursuant to ss. 120.536(1) and 120.54 of implement the provisions of this act or chapter 455 conferring duties upon it. Every licensee shall be governed and controlled by this act and the rules adopted by the board.

Section 6 Board headquarters.—The location of the Board of Mold Assessors and Remediators shall be in Tallahassee.

Section 7 Fees.--

(1) The board, by rule, may establish fees to be paid for applications, examination, reexamination, licensing and renewal, inactive status application and reactivation of inactive licenses, recordkeeping, and applications for providers of continuing education. The board may also establish by rule a delinquency fee. The board shall establish fees that are adequate to ensure the continued operation of the board. Fees shall be based on department estimates of the revenue required to implement the provisions of this act. All fees must be remitted with the appropriate application, examination, or license.

(2) The initial application and examination fee shall not exceed \$125 plus the actual per applicant cost to the department to purchase the examination from a nationally recognized testing organization, if the board chooses to purchase the examination. The examination fee shall be in an amount which covers the cost of obtaining and administering the examination and shall be refunded if the applicant is found ineligible to sit for the examination. The application fee shall be nonrefundable.

(3) The initial license fee shall not exceed \$200.

(4) The fee for a certificate of authorization shall not exceed \$125.

- (5) The biennial renewal fee shall not exceed \$500.
- (6) The fee for licensure by endorsement shall not exceed \$200.
- (7) The fee for application for inactive status or for reactivation of an inactive license shall not exceed \$150.
- (8) The fee for applications from providers of continuing education may not exceed \$500.

Section 8 Examinations.--

- (1) A person desiring to be licensed as a mold assessor or mold remediator shall apply to the department to take a licensure examination.
- (2) An applicant shall be entitled to take the licensure examination to practice in this state as a mold assessor or mold remediator if the applicant is of good moral character and has satisfied one of the following requirements:
  - (a) For a mold remediator, at least a 2-year degree in microbiology, engineering, architecture, industrial hygiene, occupational safety, or a related field of science from an accredited institution and a minimum of 1 year of documented field experience in a field related to mold remediation, or a high school diploma or the equivalent with a minimum of 4 years of documented field experience in a field related to mold remediation.
  - (b) For a mold assessor, at least a 2-year degree in microbiology, engineering, architecture, industrial hygiene, occupational safety, or a related field of science from an accredited institution and a minimum of 1 year of documented field experience in conducting microbial sampling or investigations, or a high school diploma or the equivalent with a minimum of 4 years of documented field experience in conducting microbial sampling or investigations.
- (2) The board shall review and approve courses of study in mold assessment and mold remediation.
- (3) The board may review and approve examinations by a nationally recognized entity that sets programs and standards that ensure competence as a mold assessor or mold remediator.
- (4)(a) Good moral character means a personal history of honesty, fairness, and respect for the rights of others and for the laws of this state and nation.
- (b) The board may refuse to certify an applicant for failure to satisfy this requirement only if:
  - 1. There is a substantial connection between the lack of good moral character of the applicant and the professional responsibilities of a licensed home inspector; and

2. The finding by the board of lack of good moral character is supported by clear and convincing evidence.

(c) When an applicant is found to be unqualified for a license because of a lack of good moral character, the board shall furnish the applicant a statement containing the findings of the board, a complete record of the evidence upon which the determination was based, and a notice of the rights of the applicant to a rehearing and appeal.

(5) The board may adopt rules to implement the provisions of this section.

Section 9      Licensure.--

1) The department shall license any applicant who the board certifies is qualified to practice mold assessment or mold remediation.

(2) The board shall certify for licensure any applicant who satisfies the requirements of [section 8](#) and who has passed the licensing examination. The board may refuse to certify any applicant who has violated any of the provisions of [section 14](#).

(3) The board shall certify as qualified for a license by endorsement an applicant who is of good moral character and:

(a) Is qualified to take the examination as set forth in [section 8](#) and has passed a United States national, regional, state, or territorial licensing or certification examination that is substantially equivalent to the requirements in [section 8](#); or

(b) Holds a valid license to practice mold assessment or mold remediation issued by another state or territory of the United States if the criteria for issuance of the license were substantially the same as the licensure criteria that existed in Florida at the time the license was issued.

(4) The department shall not issue a license by endorsement to any applicant who is under investigation in another state for any act that would constitute a violation of this act or chapter 455 until such time as the investigation is complete and disciplinary proceedings have been terminated.

Section 10      Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application and fee and upon certification by the department that the licensee has satisfactorily completed the continuing education requirements of [section 11](#).

(2) The board shall adopt rules establishing a procedure for the biennial renewal of licenses.

Section 11 Continuing education.—

(1) The department may not renew a license until the licensee submits proof satisfactory to it that during the 2 years prior to her or his application for renewal the licensee has completed at least 14 hours of continuing education. Criteria and course content shall be approved by the board by rule.

(2) The board may prescribe by rule additional continuing professional education hours, not to exceed 25 percent of the total hours required, for failure to complete the hours required for renewal by the end of the reestablishment period.

Section 12 Inactive license.--

(1) A licensee may request that her or his license be placed in an inactive status by making application to the department.

(2) A license that has become inactive may be reactivated upon application to the department. The board may prescribe by rule continuing education requirements as a condition of reactivating a license. The continuing education requirements for reactivating a license may not exceed 14 hours for each year the license was inactive.

(3) The board shall adopt rules relating to licenses which have become inactive and for the renewal of inactive licenses. The board shall prescribe by rule a fee not to exceed \$50 for the reactivation of an inactive license and a fee not to exceed \$50 for the renewal of an inactive license.

Section 13 Certification of partnerships and corporations

(1) The department shall issue a certificate of authorization to a corporation or partnership offering mold assessment or mold remediation services to the public if the corporation or partnership satisfies all of the requirements of this act.

(2) The practice of or the offer to practice mold assessment or mold remediation by licensees through a corporation or partnership offering mold assessment or mold remediation to the public, or by a corporation or partnership offering said services to the public through licensees under this act as agents, employees, officers, or partners, is permitted subject to the provisions of this act, provided that one or more of the principal officers of the corporation or one or more partners of the partnership and all personnel of the corporation or partnership who act in its behalf as mold assessors or mold remediators in this state are licensed as provided by this act, and, further, provided that the corporation or partnership has been issued a certificate of authorization by the board as provided in this section. Nothing in this section shall be construed to allow a corporation to hold a license to practice mold assessment or mold remediation. No corporation or partnership shall be relieved of responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with this section, nor shall any

individual practicing mold assessment or mold remediation be relieved of responsibility for professional services performed by reason of his or her employment or relationship with a corporation or partnership.

(3) For the purposes of this section, a certificate of authorization shall be required for a corporation, partnership, association, or person practicing under a fictitious name, offering mold assessment or mold remediation; however, when an individual is practicing mold assessment or mold remediation in his or her own given name, he or she shall not be required to register under this section.

(4) The fact that any licensed mold assessor or mold remediator practices through a corporation or partnership shall not relieve the licensee from personal liability for negligence, misconduct, or wrongful acts committed by him or her. Partnerships and all partners shall be jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their agents, employees, or partners while acting in a professional capacity. Any officer, agent, or employee of a business organization other than a partnership shall be personally liable and accountable only for negligent acts, wrongful acts, or misconduct committed by him or her or committed by any person under his or her direct supervision and control while rendering professional services on behalf of the business organization. The personal liability of a shareholder or owner of a business organization, in his or her capacity as shareholder or owner, shall be no greater than that of a shareholder-employee of a corporation incorporated under chapter 607. The business organization shall be liable up to the full value of its property for any negligent acts, wrongful acts, or misconduct committed by any of its officers, agents, or employees while they are engaged on its behalf in the rendering of professional services.

(5) Each certificate of authorization shall be renewed every 2 years. Each partnership and corporation certified under this section shall notify the board within 1 month of any change in the information contained in the application upon which the certification is based.

(6) Disciplinary action against a corporation or partnership shall be administered in the same manner and on the same grounds as disciplinary action against a licensed mold assessor or mold remediator.

#### Section 14 Prohibitions; penalties.--

(1) A mold assessor, a company that employs a mold assessor, or a company that is controlled by a company that also has a financial interest in a company employing a mold assessor may not:

(a) Perform or offer to perform any mold assessment unless the person has complied with the provisions of this act.

(b) Use the name or title “certified mold assessor,” “registered mold assessor,” “licensed mold assessor,” “mold assessor,” “professional mold assessor,” or any combination thereof unless the person has **complied with the provisions this act**;

(c) Perform or offer to perform any mold remediation to a structure on which the mold assessor or the mold assessor's company provided a mold assessment within the last 12 months.

(d) Inspect for a fee any property in which the assessor or the assessor's company has any financial or transfer interest.

(e) Accept any compensation, inducement, or reward from a mold remediator or mold remediator's company for the referral of any business to the mold remediator or the mold remediator's company.

(f) Offer any compensation, inducement, or reward to a mold remediator or mold remediator's company for the referral of any business from the mold remediator or the mold remediator's company.

(g) Accept an engagement to make an omission of the assessment or conduct an assessment in which the assessment itself, or the fee payable for the assessment, is contingent upon the conclusions of the assessment.

(2) A mold remediator, a company that employs a mold remediator, or a company that is controlled by a company that also has a financial interest in a company employing a mold remediator may not:

(a) Perform or offer to perform any mold remediation **unless the person has complied with the provisions of this act**.

(b) Use the name or title “certified mold remediator,” “registered mold remediator,” “licensed mold remediator,” “mold remediator,” “professional mold remediator,” or any combination thereof unless the person has **complied with the provisions of this act**;

(c) Perform or offer to perform any mold assessment as defined in **section 3**.

(d) Remediate for a fee any property in which the mold remediator or the mold remediator's company has any financial or transfer interest.

(e) Accept any compensation, inducement, or reward from a mold assessor or mold assessor's company for the referral of any business from the mold assessor or the mold assessor's company.

(f) Offer any compensation, inducement, or reward to a mold assessor or mold assessor's company for the referral of any business from the mold assessor or the mold assessor's company.

(3) Any person who violates any provision of this section commits:

(a) A misdemeanor of the second degree for a first violation, punishable as provided in s. 775.082 or s. 775.083.

(b) A misdemeanor of the first degree for a second violation, punishable as provided in s. 775.082 or s. 775.083.

(c) A felony of the third degree for a third or subsequent violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

#### Section 15 Disciplinary proceedings

1) The following acts constitute grounds for which the disciplinary actions in subsection (2) may be taken:

(a) Violation of any provision of this act or s. 455.227(1);

(b) Attempting to procure a license to practice mold assessment or mold remediation by bribery or fraudulent misrepresentations;

(c) Having a license to practice mold assessment or mold remediation revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country;

(d) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of mold assessment or mold remediation or the ability to practice mold assessment or mold remediation;

(e) Making or filing a report or record that the licensee knows to be false, willfully failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records shall include only those that are signed in the capacity of a registered mold assessor or mold remediator;

(f) Advertising goods or services in a manner that is fraudulent, false, deceptive, or misleading in form or content;

(g) Engaging in fraud or deceit, or of negligence, incompetency, or misconduct, in the practice of mold assessment or mold remediation;

(h) Failing to perform any statutory or legal obligation placed upon a licensed mold assessor or mold remediator; violating any provision of this chapter, a rule of the board or department, or a lawful order of the board or department previously entered in a

disciplinary hearing; or failing to comply with a lawfully issued subpoena of the department; or

(i) Practicing on a revoked, suspended, inactive, or delinquent license.

(2) When the board finds any mold assessor or mold remediator guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Denial of an application for licensure.

(b) Revocation or suspension of a license.

(c) Imposition of an administrative fine not to exceed \$1,000 for each count or separate offense.

(d) Issuance of a reprimand.

(e) Placement of the surveyor and mapper on probation for a period of time and subject to such conditions as the board may specify.

(f) Restriction of the authorized scope of practice by the mold assessor or mold remediator.

(3) The department shall reissue the license of a disciplined mold assessor or mold remediator upon certification by the board that he or she has complied with all of the terms and conditions set forth in the final order.

Section 16 Insurance.—

(1) Effective January 1, 2008, a mold assessor must maintain general liability and errors and omissions insurance coverage in an amount of not less than \$1,000,000.

(2) Effective January 1, 2008, a mold remediator must maintain general liability insurance policy in an amount of not less than \$1,000,000 that includes specific coverage for mold related claims.

Section 17 Contracts.--A contract to perform mold assessment or mold remediation must be in a document or electronic record, signed or otherwise authenticated by the parties. A mold assessment contract is not required to provide estimates related to the cost of repair of an assessed property. A mold assessment contract is not required to provide estimates.

Section 18 Grandfather clause.-- Until January 1, 2009, notwithstanding any other provision of this part, a person who meets the following criteria may qualify to be licensed by the department as a mold assessor or mold remediator if he or she:

- (1) Has met the education requirements of [section 8](#).
- (2) Has been engaged in the practice of mold assessment or mold remediation for compensation for at least 5 years prior to the effective date of this act
- (3) Has performed a minimum number of mold assessments or mold remediations are determined by board rule.
- (4) Is of good moral character as defined in [section 8](#).
- (5) Has not committed any acts which would be grounds for disciplinary actions had the person been licensed under this act.

Section 19 This act shall take effect July 1, 2007.